

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1245

KA 11-01266

PRESENT: CENTRA, J.P., FAHEY, CARNI, AND SCONIERS, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

CATHY T. HARRISON, DEFENDANT-APPELLANT.

WILLIAM G. PIXLEY, PITTSFORD, FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (GEOFFREY KAEUPER OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (James J. Piampiano, J.), rendered May 12, 2011. The judgment convicted defendant, upon a jury verdict, of criminal possession of a weapon in the second degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting her upon a jury verdict of criminal possession of a weapon in the second degree (Penal Law § 265.03 [1] [b]). We reject defendant's contention that County Court's instruction on the statutory presumption of unlawful intent (see § 265.15 [4]), combined with the trial testimony concerning her intent to use the weapon unlawfully against a specific victim, rendered that charge duplicitous. The count charging defendant with criminal possession of a weapon in the second degree alleged a single offense, and "there was no danger of a nonunanimous verdict with respect to" the element of intent (*People v Watson*, 115 AD3d 687, 689, lv denied 23 NY3d 1069; see *People v Lora [Jesus]*, 176 AD2d 273, 273, lv denied 79 NY2d 829).

Entered: January 2, 2015

Frances E. Cafarell
Clerk of the Court